

JERRY DOWNS)
)
 Petitioner,)
)
 v.) No. 3:07-cv-115
) *Phillips*
 JAMES DAVIS, Warden)
)
 Respondent.)

In accordance with the accompanying Memorandum Opinion, the petition for the writ of habeas corpus is **DENIED** and this action is **DISMISSED**. Should the petitioner give timely notice of an appeal from this decision, such notice will be treated as an application for a certificate of appealability, which under the circumstances is hereby **DENIED**. The court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. The court further **DENIES** the petitioner leave to proceed *in forma pauperis* on appeal.

s/ Thomas W. Phillips
United States District Judge

ENTERED AS A JUDGMENT
s/ Patricia L. McNutt
 CLERK OF COURT